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MAY 19 2005

In re Application :
Tebbe : **OFFICE OF PETITIONS**
Application No. 09/904,674 : PATENT TERM ADJUSTMENT
Filed: July 13, 2001 :
Dkt. No.: 4452-398 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed March 8, 2004. This request is being treated under 37 CFR 1.704(b) as an application for patent term adjustment. The required application fee of \$200.00 has been charged to Deposit Account No. 03-2412.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 102 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the application history reveals that an adjustment of 46 days under 37 CFR 1.702(a)(1) was attributable to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began September 14, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended October 29, 2002, the date the non-final Office action was mailed.

A further adjustment of 82 days under 37 CFR 1.702(a)(2) was attributable to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began May 6, 2003, the day after the date that is four months after the date a reply under § 1.111 was filed, and ended August 26, 2003, the date the second non-final Office action mailed.

The Office errantly entered August 4, 2003 as the date a reply to the non-final Office action mailed October 29, 2002 was filed

rather than February 5, 2003, the date the response was in fact received as evidenced by the copy of the stamped and dated postcard evidencing receipt of the response by the Office.

Accordingly, the periods of adjustment under 37 CFR 1.703 are reduced seven days in accordance with 37 CFR 1.704(b) for applicant's failure to engage in reasonable efforts to conclude prosecution. The delay began January 30, 2003, the day after the date that is three months after the date of mailing of the first non-final Office action, and ended February 5, 2003, the date a response was filed.

The periods of adjustment under 37 CFR 1.703 are further reduced 19 days in accordance with 37 CFR 1.704(b) for applicant's failure to engage in reasonable efforts to conclude prosecution. The delay began November 27, 2003, the day after the date that is three months after the date of mailing of the second non-final Office action, and ended December 15, 2003, the date a response was filed.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 102 days as argued by applicants.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin A. Ferriter
Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
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Enclosure: Copy of Adjustment PAIR Calculation